

Appendix B Statutes and Regulations

B-1. Statutes and Regulations

Compliance with Federal statutes, executive guidelines, and Corps regulations often requires studies of existing environmental conditions and projections of conditions likely to occur in the future with and without various activities. Major environmental statutes and regulations that are currently applicable to Corps small boat harbors navigation projects are listed in Appendix A. Five statutes that have a major impact on the planning and operation of small boat harbors are: The National Environmental Policy Act; The Clean Water Act; The Marine Protection, Research, and Sanctuaries Act; The Coastal Zone Management Act and Estuary Protection Act; and The Marine Mammal Protection Act.

a. National Environmental Policy Act (NEPA). NEPA is the Federal statute that established national policy for the protection of the environment and set goals to be achieved along with the means to carry out these goals. The NEPA requires preparation of an environmental impact statement (EIS) for certain Federal actions affecting the quality of the human environment. The Corps normally prepares an EIS for legislation, feasibility reports, operations and maintenance activities, regulatory permits, and real estate management and disposal actions. Environmental assessments are prepared for all other Corps actions that may not have a significant impact on the environment except for certain minor actions that are categorically excluded from NEPA review. Emergency activities do not require the preparation of an EIS (refer to ER 200-2-2 for more detailed guidance).

b. Clean Water Act. Section 404 of the Clean Water Act governs the discharge of dredged or fill material into U.S. waters. The Corps regulates these activities by granting Federal permits, and is itself regulated by Section 404 through provisions for coordination with the states and the U.S. Environmental Protection Agency (EPA). Evaluation of the effects of dredged or fill material discharges must be done in accordance with EPA guidelines (40 CFR 230).

c. Marine Protection, Research and Sanctuaries Act - Section 103. Section 103 of the Marine Protection, Research, and Sanctuaries Act authorizes the Corps to issue permits for the transportation of dredged material for dumping in ocean waters. Evaluation must be done in accordance with EPA criteria found in 40 CFR 220. Note that in relation to Sections 404 and 103, Corps Regulation 209.145 also applies.

d. Coastal Zone Management Act and Estuary Protection Act. The Coastal Zone Management Act promotes coordination in the management, beneficial use, protection, and development of the coastal zone (16 USC 1451-1464; PL 92-583 as amended). Development, management, and protection are undertaken through long-term plans implemented by the states and local coastal zone management programs. The Estuary Protection Act is specifically for protection, conservation, and restoration of resources in estuaries (16 USC 1221-1226; PL 90-454). Information from state coastal management programs and local planning agencies can assist in determining what environmental resources exist in the project area and potential impacts of Repair, Evaluation, Maintenance, and Rehabilitation Research Program activities on the coastal zone and estuaries. Compliance with the Estuary Protection Act requires that studies funded by Congress, e.g., Corps planning or construction projects, consider the effect of the project on estuaries and their resources. The Secretary of the Interior, through the Fish and Wildlife Service (FWS), reviews plans and makes recommendations. This review is incorporated into authorization reports to Congress.

e. Marine Mammal Protection Act. The Marine Mammal Protection Act was enacted to protect diminishing populations of certain species of marine mammals (16 USC 1361-1407; PL 92-522 as amended). The Act establishes the Marine Mammal Commission to oversee protection activities. The FWS and NMFS administer the Act (16 USC 1379), but primary administrative responsibilities are delegated to states with marine mammal conservation and protection programs.